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6 **UNITED STATES DISTRICT COURT**  
7 **DISTRICT OF NEVADA**

8 VALLIER WILLIAM TOMPKINS, III

9 *Petitioner,*

10 vs.

11  
12 WARDEN BACA, *et al.*,

13 *Respondents.*  
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3:16-cv-00393-HDM-WGC

ORDER

15  
16 Petitioner, a Nevada prisoner, has submitted a petition for writ of habeas corpus pursuant to 28  
17 U.S.C. § 2254. ECF No. 1. Petitioner has failed to submit an application to proceed *in forma pauperis*  
18 or pay the filing fee. Accordingly, this matter has not been properly commenced. 28 U.S.C. §  
19 1915(a)(2) and Local Rules LSR1-1, 1-2.

20 Thus, the present action will be dismissed without prejudice to the filing of a habeas petition  
21 pursuant to 28 U.S.C. § 2254 on the form required by this court in a new action with either the \$5.00  
22 filing fee or a completed application to proceed *in forma pauperis* on the proper form with both an  
23 inmate account statement for the past six months and a properly executed financial certificate.

24 It does not appear from the papers presented that a dismissal without prejudice will materially  
25 affect a later analysis of any timeliness issue with regard to a **promptly-filed** new action. Petitioner at  
26 all times remains responsible for properly exhausting his claims, for calculating the running of the  
27 federal limitation period as applied to his case, and for properly commencing a timely-filed federal  
28 habeas action.

*Howard D McKibben*  
UNITED STATES DISTRICT JUDGE